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6 UNITED STATES DISTRICT COURT

7 STATE OF NEVADA

8 MICHAEL CALKINS,

9 Plaintiff,

10 v.

11 PORTFOLIO RECOVERY ASSOCIATES,
LLC, a foreign limited liability company; and
12 EXPERIAN INFORMATION SERVICES,
INC.

13 Defendants.
14

Case No.: 2:16-cv-02628 RFB-VCF

STIPULATED PROTECTIVE ORDER

15 IT IS HEREBY STIPULATED by and between Plaintiff Michael Calkins (“Plaintiff”),
16 Defendant Portfolio Recovery Services Inc. (“PRA”), and Defendant Experian Information
17 Solutions, Inc. (“Experian”) (collectively, “the Parties”) through their respective attorneys of
18 record, as follows:

19 WHEREAS, documents and information have been and may be sought, produced or
20 exhibited by and among the parties to this action relating to trade secrets, confidential research,
21 development, technology or other proprietary information belonging to the defendants, and/or
22 personal income, credit and other confidential information of Plaintiff.

23 THEREFORE, an Order of this Court protecting such confidential information shall be and
24 hereby is made by this Court on the following terms:

25 1. This Order shall govern the use, handling and disclosure of all documents,
26 testimony or information produced or given in this action which are designated to be subject to
27 this Order in accordance with the terms hereof.
28

1 2. Any party or non-party producing or filing documents or other materials in this
2 action may designate such materials and the information contained therein subject to this Order by
3 typing or stamping on the front of the document, or on the portion(s) of the document for which
4 confidential treatment is designated, “Confidential.”

5 3. To the extent any motions, briefs, pleadings, deposition transcripts, or other papers
6 to be filed with the Court incorporate documents or information subject to this Order, the party
7 filing such papers shall designate such materials, or portions thereof, as “Confidential” and shall
8 file them with the clerk, along with a Motion To Seal in relation to allegedly “Confidential”
9 materials; provided, however, that a copy of such filing having the confidential information
10 deleted therefrom may be made part of the public record. Any party seeking to file any document
11 under seal must comply with the requirements of Civil Local Rules.

12 4. The parties understand that the Ninth Circuit has held that there is a presumption of
13 public access to judicial files and records, and that parties seeking to maintain the confidentiality
14 of documents attached to nondispositive motions must show good cause exists to overcome the
15 presumption of public access. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172,
16 1179 (9th Cir. 2006). The parties understand, that parties seeking to maintain the secrecy of
17 documents attached to dispositive motions must show compelling reasons sufficient to overcome
18 the presumption of public access. *Id.*, at 1180. The parties understand that all motions to seal
19 must address the applicable standard and explain why that standard has been met. The parties
20 further understand, that the fact that a court has entered a blanket protective order and that a party
21 has designated a document as confidential pursuant to that protective order does not, standing
22 alone, establish sufficient grounds to seal a filed document. *See Foltz v. State Farm Mut. Auto.*
23 *Ins. Co.*, 331 F.3d 1122, 1133 (9th Cir. 2003); *see also Beckman Indus., Inc. v. Int’l Ins. Co.*, 996
24 *F.2d* 470, 476 (9th Cir. 1992).

25 If the sole ground for a motion to seal is that the opposing party (or non-party) has
26 designated a document as subject to protection pursuant to the stipulated protective order, the
27 movant must notify the opposing party (or non-party) at least seven days prior to filing the
28 designated document. The designating party must then make a good faith determination if the

1 relevant standard for sealing is met. To the extent the designating party does not believe the
2 relevant standard for sealing can be met, it shall indicate that the document may be filed publicly
3 no later than four days after receiving notice of the intended filing. To the extent the designating
4 party believes that relevant standard for sealing can be met, it shall provide a declaration
5 supporting that assertion no later than four days after receiving notice of the intended filing. The
6 filing party shall then attach that declaration to its motion to seal the designated material. If the
7 designating party fails to provide such a declaration in support of the motion to seal, the filing
8 party shall file a motion to seal so indicating and the Court may order the document filed in the
9 public record.

10 In the event of an emergency motion, the procedures in the paragraph above shall not
11 apply. Instead, the movant shall file a motion to seal and the designating party shall file a
12 declaration in support of that motion to seal within three days following its filing. The parties
13 understand that if the designating party fails to timely file such a declaration, the Court may order
14 the document filed in the public record.

15 5. All documents, transcripts, or other materials subject to this Order, and all
16 information derived therefrom (including, but not limited to, all testimony given in a deposition,
17 declaration or otherwise, that refers, reflects or otherwise discusses any information designated
18 “Confidential”, shall not be used, directly or indirectly, by any person, including Plaintiff, PRA,
19 and Experian, for any business, commercial or competitive purposes or for any purpose
20 whatsoever other than solely for the preparation and trial of this action in accordance with the
21 provisions of this Order.

22 6. Except with the prior written consent of the individual or entity designating a
23 document or portions of a document as “Confidential,” or pursuant to prior Order after notice, any
24 document, transcript or pleading given “Confidential” treatment under this Order, and any
25 information contained in, or derived from any such materials (including but not limited to, all
26 deposition testimony that refers to, reflects or otherwise discusses any information designated
27 “Confidential” hereunder) may not be disclosed other than in accordance with this Order and may
28 not be disclosed to any person other than: (a) the Court and its officers; (b) parties to this

1 litigation; (c) counsel for the parties, whether retained outside counsel or in-house counsel and
2 employees of counsel assigned to assist such counsel in the preparation of this litigation; (d) fact
3 witnesses subject to a proffer to the Court or a stipulation of the parties that such witnesses need to
4 know such information; and (e) present or former employees of the Producing Party in connection
5 with their depositions in this action (provided that no former employees shall be shown documents
6 prepared after the date of his or her departure), and (f) experts specifically retained as consultants
7 or expert witnesses in connection with this litigation.

8 7. Documents produced pursuant to this Order shall not be made available to any
9 person designated in paragraph 6(f) unless such other person shall have first read this Order,
10 agreed to be bound by its terms, and signed the attached Declaration of Compliance.

11 8. All persons receiving any or all documents produced pursuant to this Order shall be
12 advised of their confidential nature. All persons to whom confidential information and/or
13 documents are disclosed are hereby enjoined from disclosing same to any person except as
14 provided herein, and are further enjoined from using same except in the preparation for and trial of
15 the above-captioned action between the named parties thereto. No person receiving or reviewing
16 such confidential documents, information or transcript shall disseminate or disclose them to any
17 person other than those described in paragraph 6, and then only for the purposes specified, and in
18 no event shall such person make any other use of such document or transcript.

19 9. Nothing in this Order shall prevent a party from using at trial any information or
20 materials designated "Confidential".

21 10. This Order has been agreed to by the parties to facilitate discovery and the
22 production of relevant evidence in this action. Neither the entry of this Order, nor the designation
23 of any information, document, or the like as "Confidential," nor the failure to make such
24 designation, shall constitute evidence with respect to any issue in this action.

25 11. Within sixty (60) days after the final termination of this litigation, all documents,
26 transcripts, or other materials afforded confidential treatment pursuant to this Order, including any
27 extracts, summaries or compilations taken therefrom, but excluding any materials which in the
28 good faith judgment of counsel are work product materials, shall be returned to the Producing

1 Party.

2 12. In the event that any party to this litigation disagrees at any point in these
3 proceedings with any designation made under this Protective Order, the parties shall first try to
4 resolve such dispute in good faith on an informal basis in accordance with Civil Local Rules. If
5 the dispute cannot be resolved, the party objecting to the designation may seek appropriate relief
6 from this Court. During the pendency of any challenge to the designation of a document or
7 information, the designated document or information shall continue to be treated as “Confidential”
8 subject to the provisions of this Protective Order.

9 13. Nothing herein shall affect or restrict the rights of any party with respect to its own
10 documents or to the information obtained or developed independently of documents, transcripts
11 and materials afforded confidential treatment pursuant to this Order.

12 The Court retains the right to allow disclosure of any subject covered by this stipulation or
13 to modify this stipulation at any time in the interest of justice.

14 **IT IS SO STIPULATED.**

15 Dated: this 19th day of October, 2017. _____ KRAVITZ, SCHNITZER, & JOHNSON,
16 CHTD

17
18 By: /s/ Gina M. Mushmeche
19 Gina M. Mushmeche
20 Nevada Bar No. 10411
8985 S. Eastern Avenue, Suite 200
Las Vegas, NV 89123

21 *Attorneys for Defendant Portfolio Recovery
Associates, LLC*

22 Dated: this 19th day of October, 2017. _____ THE LAW OFFICE OF VERNON NELSON, PLLC

23
24 By: /s/ Vernon Nelson
25 Vernon Nelson
26 Nevada Bar No. 6434
9480 South Eastern Avenue, Suite 244
Las Vegas, NV 89123

27 *Attorneys for Plaintiff Michael Calkins*

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Dated: this 19th day of October, 2017.

NAYLOR & BRASTER

By: /s/ Andrew Sharples
Jennifer L. Braster
Naylor & Braster
Nevada Bar No. 9982
2050 Indigo Drive, Suite 200
Las Vegas, NV 89145

Attorneys for Defendant Experian Information Solutions

IT IS SO ORDERED.

Dated: October 23, 2017



HON. CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE